

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PAN AMERICAN AIRWAYS CORP.,

Plaintiff

v.

ROBERT E. BARNES

Defendant

Case No. 04-CV-10515JLT

**DEFENDANT'S, MOTION IN LIMINE FOR A PRE-TRIAL RULING
AS TO CHOICE OF LAW TO BE APPLIED TO PLAINTIFF'S CLAIMS
AND DEFENDANT'S COUNTERCLAIMS**

Now, comes the Defendant, Robert Barnes, and requests that this Honorable Court enter a pre-trial ruling that for all claims Massachusetts Law applies. As grounds for this motion, Defendant states as follows:

1. Pan Am's action against Robert Barnes is brought in Federal Court pursuant to 28 U.S.C. Section 1332.

This action is a diversity action and Massachusetts substantive law should be applied.¹

2. All motions, arguments and decisions made in this action, throughout Discovery, have been based on Massachusetts law, and it is in the interest of judicial efficiency and fairness to continue applying Massachusetts law for both the

¹ "In Diversity of Citizenship cases, the Federal Courts, when deciding questions of conflict of laws, must follow the rules prevailing in the states in which they sit" Erie R. Co. v. Tompkins, 304 U.S. 64

original action and Defendant's counterclaim.

WHEREFORE, the Defendant, Robert Barnes, respectfully requests that this Court enter a pre-trial ruling determining that Massachusetts law is to be applied to all claims and counterclaims.

Respectfully submitted,

A handwritten signature in cursive script that reads "Peter Piel". The signature is written in dark ink and is positioned above a horizontal line.

Peter Piel
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Dated: September 12, 2006

Certificate of Service

I, Peter Piel, hereby certify that a true copy of the above document was served upon John J. O'Brien, Jr., the attorney of record for the plaintiff, by hand on this 12th day of September 2006.

A handwritten signature in cursive script that reads "Peter Piel".

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